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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,336	12/15/1999	DAZHI CHEN	56803.000002	3675

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EXAMINER

JAKETIC, BRYAN J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/461,336

Applicant(s)

CHEN ET AL

Examiner

Bryan Jaketic

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-132 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112 and 115-129 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Continuation of Disposition of Claims: Claims withdrawn from consideration are 11-13, 17-22, 46-48, 52-57, 82, 83, 99, 101, 113, 114, 130 and 132.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species VI in Paper No. 8 is acknowledged.
2. Upon review of the Election Requirement of Paper No. 7, Examiner discovered that claims 85-87 and 92-96 were inadvertently omitted from the list of generic claims. Claims 85-87 and 92-96 will therefore be examined as part of this Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1-3, 9, 14, 23, 29, 31-38, 44, 49, 58, 64, 66-71, 73, 74, 77, 78, 85, 102, 104, 105, 108, 109, and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire in view of Messner. PR Newswire discloses a method for selling gift certificates through a web-site comprising the steps of enabling a restaurant to post a gift certificate for auction, enabling users to place bids on the gift certificate, processing the bids, and awarding the gift certificate to the winner (see p. 1, 3rd and 4th paragraphs).

PR Newswire does not disclose the step of setting a minimum bid for the item or an instant purchase amount. However, it is common in the art for sellers to set a minimum bid for an auction and an instant purchase amount. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of setting a minimum bid to ensure that the item isn't sold for less than a seller's reservation price. It also would have been obvious to one of ordinary skill in the art at the time the invention was made to employ an instant purchase amount to allow sellers to sell the item at a fixed price.

PR Newswire does not disclose the step of enabling a restaurant to display an advertisement at a premium space. However, advertising is common in the art, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to enable a restaurant to advertise at a premium space to help promote the auction.

PR Newswire does not disclose the step of enabling the restaurant to track and monitor bids. However, it is common in the art for sellers to track and monitor bids, and

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it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of enabling sellers to track and monitor bids so they may gauge the success of the auction.

PR Newswire does not disclose the step of providing to the restaurant a list of winning bidders. However, it is common in the art to provide the seller with the name of the bidder. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of providing to the restaurant a list of winning bidders so that the seller may transmit the item to the bidders.

PR Newswire does not teach the steps of receiving an attendance report from the restaurant and collecting a fee for certificates redeemed. However, it is common in the art to charge a fee to the seller for the use of an auction web site, and it is common in the art to charge a fee only for services actually completed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the steps of receiving an attendance report from the restaurant and collecting a fee for certificates redeemed as an equitable method of generating revenue.

PR Newswire does not disclose the use of featured auctions or the step of collecting a premium fee for featured auctions. However, featured auctions are common in the art, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ featured auctions and charge a premium fee for them to generate additional revenue.

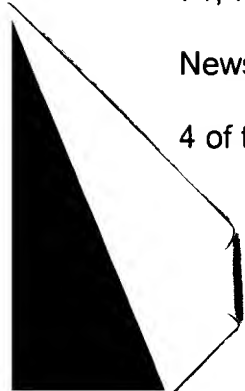
PR Newswire does not teach that the winning bidder pays for the item when he is declared the winner or at the time it is used. However, it is common in the art for an

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auction winner to pay when he is declared the winner or at the time it is used. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of requiring payment when the winner is announced to ensure that payment is received.

PR Newswire does not teach that the gift certificate is redeemable during a predetermined period of time, nor does PR Newswire teach the step of enabling the winner to download the item for redemption from a web site or e-mail. Messner discloses a gift certificate that has an expiration date (col. 12, lines 21-30) and must therefore be redeemed during a predetermined period of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the time dependent gift certificates of Messner with the invention of PR Newswire to ensure that the gift certificates are used in a timely fashion. Messner also discloses a gift certificate that can be downloaded from a web site (col. 1, lines 34-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Messner with the invention of PR Newswire to allow users to download gift certificates from a web site for speed and convenience.

6. Claims 4, 5, 7, 8, 24, 39, 40, 42, 43, 59, 75, 76, 79, 80, 84, 86, 106, 107, 110, 111, 115, and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire and Messner as applied to claims 1-3, 9, 14, 23, 32, 36-38, 44, 49, 58, 67, 71, 73, 74, 78, 102, 104, 105, and 109 above, and further in view of Fisher et al. PR Newswire and Messner disclose the limitations of the claims as described in paragraph 4 of this Office Action. PR Newswire and Messner do not disclose a seller or buyer



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registration process. Fisher et al disclose an auction system that requires seller to register and provide a complete and thorough description of the item being sold (col. 4, lines 12-28). It is inherent that a complete and thorough description of a restaurant gift certificate would include a restaurant description. Fisher et al also disclose an auction system that requires bidders to register and provide identification information (Fig. 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Fisher et al with the combination of PR Newswire and Messner to require buyers and sellers to register to prevent fraudulent postings or bids.

PR Newswire and Messner do not disclose the steps of enabling bidders to place a quantity of item amount and a bid amount nor do they disclose an auto-bid feature. Fisher et al disclose the steps of enabling bidders to place a quantity of item amount and a bid amount (col. 8, lines 39-55). Fisher et al also disclose an auto-bid feature that allows the user to submit a maximum bid amount and a bid increment amount where the bids are automatically incremented to the maximum amount (col. 8, line 56 through col. 9, line 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Fisher et al with the combination of PR Newswire and Messner to allow bidders to place a quantity of item amount and a maximum bid amount for the bidders convenience.

PR Newswire and Messner do not disclose the steps of enabling the restaurant to set an auction schedule. Fisher et al disclose the step of enabling a seller to set an auction schedule (col. 8, lines 13-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Fisher et al

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with the combination of PR Newswire and Messner to allow a seller to set a schedule to allow him to sell items at a time he prefers.

7. Claims 6, 16, 41, 51, 72, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire and Messner as applied to claims 1-3, 9, 14, 23, 32, 36-38, 44, 49, 58, 67, 71, 73, 74, 78, 102, 104, 105, and 109 above, and further in view of Levin et al. PR Newswire and Messner disclose the limitations of the claims as described in paragraph 4 of this Office Action. PR Newswire and Messner do not disclose a search engine for searching for auctions by restaurant name or cuisine type. Levin discloses a search engine that allows users to search for restaurants by cuisine type (col. 3, lines 25-43 and col. 12, line 51 through col. 13, line 15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the search engine of Levin et al with the combination of PR Newswire and Messner to help users find restaurants of interest.

8. Claims 10, 15, 30, 45, 50, 65, 81, 87, 88, 91-97, 100, 112, 118, 119, 122-128, and 131 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire and Messner as applied to claims 1-3, 9, 14, 23, 32, 36-38, 44, 49, 58, 67, 71, 73, 74, 78, 102, 104, 105, and 109 above, and further in view of Friedland et al. PR Newswire and Messner disclose the limitations of the claims as described in paragraph 4 of this Office Action. PR Newswire and Messner do not disclose a personalized auction page comprising an auction list. Friedland et al disclose an auction having a personalized auction page comprising an auction list (Fig. 6; see col. 11, line 39 through col. 12, line 41). It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to employ the page of Friedland et al with the combination of PR Newswire and Messner to help users find and keep track of auctions of interest.

PR Newswire and Messner do not disclose an auction management module. Friedland et al disclose an auction management module that allows seller to create, delete and modify auctions (col. 5, line 6 through col. 6, line 13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the auction management module of Friedland et al with the combination of PR Newswire and Messner to allow sellers to create, delete and modify auctions to provide more options to sellers.

PR Newswire and Messner do not disclose the step of e-mailing customers notification that an auction has been posted. Friedland et al disclose the step of providing e-mail notification to customers (col. 5, line 51 through col. 6, line 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Friedland et al with the combination of PR Newswire and Messner to notify customers of events they have interest in.

9. Claims 25-28, 60-63, 89, 90, 98, 120, 121, and 129 are rejected under 35 U.S.C. 103(a) as being unpatentable over PR Newswire and Messner as applied to claims 1-3, 9, 14, 23, 32, 36-38, 44, 49, 58, 67, 71, 73, 74, 78, 102, 104, 105, and 109 above, and further in view of Boe et al. PR Newswire and Messner disclose the limitations of the claims as described in paragraph 4 of this Office Action. PR Newswire and Messner do not disclose the step of creating a survey for users to complete to receive targeted marketing and promotions. Boe et al disclose a system for profiling

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customers for targeted marketing comprising the steps of providing surveys for users to provide demographic information (col. 2, line 60 through col. 3, line 55) or purchase history data (504).

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ausubel discloses a computer implemented auction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Jaketic whose telephone number is (703) 308-0134. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bj
November 25, 2002


11/25/02